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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,575

Applicant(s)

FONTIJN ET AL.

Examiner

Albert Phillips

Art Unit

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 11/21/05.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to application No. 10/525575 filed on 2/23/05 in which claims 1-13 are presented for examination.

5

Status of Claims

Claims 1-13 are pending.

Information Disclosure Statement

10 The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the
15 application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)),
20 and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information

or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

- 5 Additionally, the information disclosure statement filed 11/21/05 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there are no copies of the references listed in the search report referenced in the IDS. Additionally, the references are not listed in the IDS itself. The IDS has been placed in the application file, but the information referred to therein has not been considered as to the merits.
- 10 Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).
- 15

35 USC § 112 Sixth Paragraph Statement

A claim limitation will be presumed to invoke 35 U.S.C. 112, sixth paragraph, if it meets the following 3-prong analysis:

- 20 (A) the claim limitations must use the phrase "means for" or "step for;"
- (B) the "means for" or "step for" must be modified by functional language;
- and

(C) the phrase "means for" or "step for" must not be modified by sufficient structure, material, or acts for achieving the specified function.

See MPEP 2181.

Claims 11, 12 and 13 contain the words "means for". While the phrases are
5 modified by functional language, the claims ARE modified by sufficient acts achieving the specified function. Thus, the claims fail prong (C). For example, claim 11 recites a "reading means for reading a driver-readable entry . . . comprising information allowing the driver to find said DRM pointer entry and to access said digital rights management data. . .". The language after the means for clause--"allowing the driver to find said DRM
10 pointer entry and to access said digital rights management data . . ."--recites acts (finding and accessing) that achieve the reading function. Thus, prong (C) has not been satisfied. Similarly, the other "means for" clauses in claim 11, 12, and 13 fail prong (C) for the same or similar reasons.

Thus, the three prong test of *In re Donaldson Co.*, 16 F.3d 1189, 29 USPQ2d
15 1845 (Fed. Cir. 1994) has NOT been met and the language in claims 11, 12, and 13 will be NOT interpreted under 35 U.S.C. 112, sixth paragraph.

Specification

The disclosure is objected to because of the following informalities:

20 Applicant's specification contains the word "adaption" on p. 1 line 7, 10 and p. 7 line 4. Examiner interprets this as a typographical error. Examiner recommends changing the word "adaption" to "adaptation". Appropriate correction is required.

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b) (4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text. Appropriate correction is required.

- 5 **The disclosure should also contain the appropriate headings.** See MPEP 601 and 608.01; "Arrangement and Contents of the Specification". Appropriate correction is required.

Drawings

- 10 Figure 1 is objected to under 37 CFR 1.83(a) because it fails to show the reproduction device with the proper details as described in the specification. In Fig. 1, the reference numbers 1, 2, 3, 4 and 5 point to figures which have no label. Examiner recommends adding descriptions to those figures. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing.
- 15 MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If
- 20 a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

5 examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1, 2, 3, 4, 7, 9, 10, 11-12 are objected to because of the following informalities: Claim 1-12 contain abbreviations such as "ALP" and "E2" which are not spelled out in the claims. Also, the abbreviations that *have* been spelled out are done so in the dependent claims after they have been introduced in the parent claim. See for example, claim 1 ("FE") vs. claim 8 ("FE" defined as "file entry"). **Examiner recommends spelling out all the abbreviations the first time they appear in order to indicate the intended meaning of the abbreviations. Appropriate correction is required.**

Claim 1-13 should also start with "A" or "The". For example, claim 1 should read "A record carrier . . ." and claim 2 should read "The record carrier as claimed in claim 1 . . ." Appropriate correction is required.

Claim 13 is objected to because of the following informalities: Claim 13 recites the phrase "QComputer program". Examiner interprets this as a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-13 contain parenthetical elements which correspond to elements in the
5 Applicant's specification. See, for example, claim 1 line 5 and claim 1 line 8—(ALP) and (E2, IUVD, FE). One skilled in the art could not determine the scope of these claims because it is unclear from the claim language how these parenthetical items limit (if at all) the scope of the claims. As an example, claim 1 recites a "drive-readable entry (E2, IUVD, FE)." One skilled in the art could not determine the scope of this claim because it
10 is unclear whether the entry "comprises" those items, "consists" of those items, etc. Thus, it is unclear which one of those parenthetical items (if any) are required to teach the invention as recited in claim 1. The same analysis applies for the remaining claims.

Claim 13 is rejected because it depends from claim 9. Since claim 9's scope cannot be determined based on the parenthetical items, claim 13's scope also cannot
15 be determined.

Thus, for the reasons indicated above, claims 1-13 are rendered indefinite.¹

For the purposes of examination, Examiner interprets the parenthetical items as optional.

20

¹ See also claim objections, *supra*. The parenthetical items (abbreviations) should be spelled out.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

5

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-13 are directed to non-statutory subject matter.

10

Claim 1 is directed to a computer readable medium (record carrier) comprising non-functional descriptive material. While "record carrier" is a proper statutory medium on which to store material (record carrier is defined as a compact disk in the Specification), the acts of storing DRM data in the program area, storing a DRM pointer entry in the program area, and storing a drive readable-entry in the program area or PMA merely describe the data as it exists on the medium and are not acts that perform a particular function. As such, the elements in claim 1 are merely an arrangement of data on a computer readable medium. Thus, the claims lack the necessary physical articles or objects to constitute a machine or article of manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category.

20

See also *MPEP* 2106.01:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759."

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d

5 1031, 1035 (Fed. Cir. 1994) (discussing patentable weight of data structure limitations in the context of a statutory claim to a data structure stored on a computer readable medium that increases computer efficiency) and *In re Warmerdam*, 33 F.3d 1354, 1360-61, 31 USPQ2d *, 1754, 1759(claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361,
10 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement.

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a
15 computer- readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory.

The dependent claims included in the above statements of rejection but not specifically addressed in the body of the rejection have inherited the deficiencies of their
20 parent claim and have not resolved the deficiencies. Therefore, they are rejected based on the same rationale as applied to their parent claims above.

Claim 13 is directed to non-statutory subject matter for the following additional reason:

Claim 13 recites the element "[computer] program comprising program code means for causing a computer to perform the steps of the method as claimed in claim 9
5 when said computer program is run on a computer". This element is directed to software per se because the claim language is directed to software that "is run" on a computer and a means "for causing" a computer to perform the steps implemented by software. Thus, claim 13 is not directed to a statutory category of invention because the hardware elements are not specifically claimed.

10 As such, the claims lack the necessary physical articles or objects to constitute a machine or article of manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process (claim 13 is directed to "a computer program"), nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional
15 descriptive material per se.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable
20 medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d

1031, 1035 (Fed. Cir. 1994) (discussing patentable weight of data structure limitations in the context of a statutory claim to a data structure stored on a computer readable medium that increases computer efficiency) and In re *Warmerdam*, 33 F.3d 1354, 1360-61, 31 USPQ2d *, 1754,1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 8-13 are rejected under 35 USC 103 as being unpatentable over Shavit (U.S. Patent 6,952,479 which incorporates by reference Alcalay (U.S. Patent 6,988,206) (See Shavit col. 5:10-14 and col. 12:35-40)) in view of Ohno (U.S. Patent 6,628,602).

With respect to claim 1, Shavit teaches "record carrier having a program memory area (PMA) for storing administrative data, a lead in area, a program area for storing user data and a lead out area, wherein digital rights management data are

stored in the program area" in Fig 1, col. 11:47-62, col. 14:51-61, col. 18:47:54, and col. 3:37:40 (Examiner interprets the data stored along with the audio data as well as the audio data itself stored in the first session as "DRM data" in that it is the data that is protected from unauthorized copying; the data can be stored in the program area. See

5 Shavit col. 15:13-15. See also Alcalay col. 6:65-col.7:20).

Alcalay teaches "a DRM pointer entry (ALP) comprising the entry point for said digital rights management data . . . after said digital rights management (DRM) data" in Fig. 4 col. 6:65-col.7:20. (Pointer to entry point of first session is stored in second session which is stored after first session.)

10 Alcalay further teaches "a drive-readable entry (E2, IUVD, FE) comprising an information allowing the drive to find said DRM pointer entry (ALP) and to access said digital rights management (DRM) data " in Fig. 4 item 102 and item 90, col. 65-col. 7:20 and col. 7:32-42 (Entry allows authorized equipment to access DRM data (audio data); entry is an "ALP" in that it enables access to the DRM data; See

15 Applicant's Specification p. 8 lines 8-13).

It appears Shavit et. al fail to explicitly teach that the DRM pointer entry is stored in said program area or that the drive-readable entry is stored in said program memory area or program area.

However, Ohno teaches an entry in the program area that stores user

20 information in col. 2:1-15.

Ohno and Shavit et al. are analogous art because they are from the same field of endeavor--optical disks.

It would have been obvious to one skilled in the art at the time of the invention to modify the drive-readable entry stored in the lead-in area as taught by Shavit et. al. by
5 storing the entry in the program area as taught by Ohno.

The motivation would have been to accommodate CDs that were created using TAO ("Track-at-once") recording. See Ohno col. 2:10-15.

With respect to claim 8, Alcaly teaches "Record carrier as claimed in claim 1,
10 wherein a file containing said DRM pointer entry (ALP) or a pointer to said DRM pointer entry (ALP) and a file entry (FE) describing said file in the file system are stored in the program area" in col. 7:17-23. See also Ohno, abstract. (Both references teach storing files (audio data, tracks, information data, sessions, etc.) with DRM pointer entries in the program area.).

15

With respect to claim 9 and 13, Shavit teaches "a method of accessing digital rights management data stored in the program area of a record carrier as claimed in claim 1, comprising the steps of: reading a drive-readable entry (E2, IUVD, FE), . . . , comprising an information allowing the drive to find said DRM pointer entry (ALP) and to
20 access said digital rights management (DRM) data" in Fig 1, col. 11:47-62, col. 14:51-

61, col. 18:47:54, and col. 3:37:40 (Examiner interprets the data stored along with the audio data as well as the audio data itself stored in the first session as "DRM data" in that it is the data that is protected from unauthorized copying). The DRM data can be stored in the program area. See Shavit col. 15:13-15; Entry is an "ALP" in that it
5 enables access to the DRM data; See Applicant's Specification p. 8 lines 8-13).

Alcalay teaches "using said information comprised in said drive-readable entry to read said DRM pointer entry (ALP), which is stored . . . after said digital rights management (DRM) data, comprising the entry point for said digital rights management data" in Fig. 4 item 102 and item 90, col. 65-col. 7:20 and col. 7:32-42 (Entry allows
10 authorized equipment to access DRM data (audio data)).

Alcalay teaches "using said entry point comprised in said DRM pointer entry (ALP) to access said digital rights management data" in Fig. 4 item 102 and item 90, col. 65-col. 7:20 and col. 7:32-42 (Entry allows authorized equipment to access DRM data (audio data)).

15 It appears Shavit et. al fail to explicitly teach that the DRM pointer entry is stored in said program area or that the drive-readable entry is stored in said program memory area or program area.

However, Ohno teaches an entry in the program area that stores user information in col. 2:1-15.

20 Ohno and Shavit et al. are analogous art because they are from the same field of endeavor--optical disks.

It would have been obvious to one skilled in the art at the time of the invention to modify the drive-readable entry stored in the lead-in area as taught by Shavit et. al. by storing the entry in the program area as taught by Ohno.

The motivation would have been to accommodate CDs that were created using
5 TAO ("Track-at-once") recording. See Ohno col. 2:10-15.

With respect to claim 10, Shavit teaches "storing said digital rights management data in the program area" in Fig 1, col. 11:47-62, col. 14:51-61, col. 18:47:54, and col. 3:37:40 (Examiner interprets the data stored along with the audio
10 data as well as the audio data itself stored in the first session as "DRM data" in that it is the data that is protected from unauthorized copying; the data can be stored in the program area. See Shavit col. 15:13-15. See also Alcalay col. 6:65-col.7:20).

Alcalay teaches "storing a DRM pointer entry (ALP) after said digital rights management (DRM) data, said DRM pointer entry (ALP) comprising the entry point for
15 said digital rights management data" in Fig. 4 col. 6:65-col.7:20. (Pointer to entry point of first session is stored in second session which is stored after first session.)

Alcalay further teaches "storing a drive-readable entry (E2, IUVD, FE) . . . , said drive-readable entry comprising an information allowing the drive to find said DRM pointer entry (ALP) and to access said digital rights management (DRM) data" in Fig. 4
20 item 102 and item 90, col. 65-col. 7:20 and col. 7:32-42 (Entry allows authorized

equipment to access DRM data (audio data); entry is an "ALP" in that it enables access to the DRM data; See Applicant's Specification p. 8 lines 8-13).

It appears Shavit et. al fail to explicitly teach that the DRM pointer entry is stored in said program area or that the drive-readable entry is stored in said program memory
5 area or program area.

However, Ohno teaches an entry in the program area that stores user information in col. 2:1-15.

Ohno and Shavit et al. are analogous art because they are from the same field of endeavor--optical disks.

10 It would have been obvious to one skilled in the art at the time of the invention to modify the drive-readable entry stored in the lead-in area as taught by Shavit et. al. by storing the entry in the program area as taught by Ohno.

The motivation would have been to accommodate CDs that were created using TAO ("Track-at-once") recording. See Ohno col. 2:10-15.

15 **With respect to claim 11**, Shavit teaches "drive for accessing digital rights management data stored in the program area of a record carrier as claimed in claim 1, comprising: reading means for reading a drive-readable entry (E2, IUVD, FE), . . . comprising an information allowing the drive to find said DRM pointer entry (ALP) and to access said digital rights management (DRM) data" in Fig 1, col. 11:47-62, col. 14:51-
20 61, col. 18:47:54, and col. 3:37:40 (Examiner interprets the data stored along with the

audio data as well as the audio data itself stored in the first session as "DRM data" in that it is the data that is protected from unauthorized copying; the data can be stored in the program area. See Shavit col. 15:13-15. See also Alcalay col. 6:65-col.7:20. With respect to reading, it is well-known in the art that CD-ROM drives, CD-R drives, etc can
5 read data.).

Alcalay teaches "evaluation means for evaluating said information comprised in said drive-readable entry and transmitting it to said reading means, said reading means being adapted to read said DRM pointer entry (ALP), . . . after said digital rights management (DRM) data , comprising the entry point for said digital rights management
10 data, said evaluation means being adapted for evaluating said entry point comprised in said DRM pointer entry (ALP) and transmitting it to said reading means for accessing said digital rights management data" in the abstract, Fig. 4 item 102 and item 90, col. 65-col. 7:20 and col. 7:32-42 (entry allows authorized equipment to access (evaluate and transmit) DRM data (audio data); entry is an "ALP" in that it enables access to the
15 DRM data; See Applicant's Specification p. 8 lines 8-13); Fig. 4 col. 6:65-col.7:20. (Pointer to entry point of first session is stored in second session which is stored after first session).

It appears Shavit et. al fail to explicitly teach that the DRM pointer entry is stored in said program area or that the drive-readable entry is stored in said program memory
20 area or program area.

However, Ohno teaches an entry in the program area that stores user information in col. 2:1-15.

Ohno and Shavit et al. are analogous art because they are from the same field of endeavor--optical disks.

5 It would have been obvious to one skilled in the art at the time of the invention to modify the drive-readable entry stored in the lead-in area as taught by Shavit et. al. by storing the entry in the program area as taught by Ohno.

The motivation would have been to accommodate CDs that were created using TAO ("Track-at-once") recording. See Ohno col. 2:10-15.

10 **With respect to claim 12**, Shavit teaches "recording device for recording digital rights management data on a record carrier as claimed in claim I, comprising recording means for storing said digital rights management data in the program area, for storing a DRM pointer entry (ALP). . . after said digital rights management (DRM) data" in Fig 1,
15 col. 11:47-62, col. 14:51-61, col. 18:47:54, and col. 3:37:40 (Examiner interprets the data stored along with the audio data as well as the audio data itself stored in the first session as "DRM data" in that it is the data that is protected from unauthorized copying; The DRM data can be stored in the program area. See Shavit col. 15:13-15; see also Alcalay col. 6:65-col.7:20).

20 Alcalay teaches "said DRM pointer entry (ALP) comprising the entry point for said digital rights management data and for storing a drive-readable entry (E2, IUVD, FE) . . .

, said drive-readable entry comprising an information allowing the drive to find said DRM pointer entry (ALP) and to access said digital rights management (DRM) data" in Fig. 4 col. 6:65-col.7:2 (pointer to entry point of first session is stored in second session which is stored after first session.); Fig. 4 item 102 and item 90, col. 65-col. 7:20 and col. 7:32-5 42 (Entry allows authorized equipment to access DRM data (audio data); Entry is a "ALP" in that it enables access to the DRM data; See Applicant's Specification p. 8 lines 8-13).

It appears Shavit et. al fail to explicitly teach that the DRM pointer entry is stored in said program area or that the drive-readable entry is stored in said program memory
10 area or program area.

However, Ohno teaches an entry in the program area that stores user information in col. 2:1-15.

Ohno and Shavit et al. are analogous art because they are from the same field of endeavor--optical disks.

15 It would have been obvious to one skilled in the art at the time of the invention to modify the drive-readable entry stored in the lead-in area as taught by Shavit et. al. by storing the entry in the program area as taught by Ohno.

The motivation would have been to accommodate CDs that were created using TAO ("Track-at-once") recording. See Ohno col. 2:10-15.

Claim 2 is rejected under 35 USC 103 as being unpatentable over Shavit (U.S. Patent 6,952,479 which incorporates by reference Alcalay (U.S. Patent 6,988,206) (See Shavit col. 5:10-14 and col. 12:35-40)) in view of Ohno (U.S. Patent 6,628,602) as applied to claim 1 above and further in view of Andoh '849 (US 2001/0040849).

With respect to claim 2, Shavit et al/Ohno teach all the elements of claim 1 including an ALP pointer entry. See above.

It appears Shavit/Ohno fail to explicitly teach "Record carrier as claimed in claim 1, wherein an ALP pointer entry (E2) comprising the address of said DRM pointer entry (ALP) is stored in the program memory area (PMA)"

However, Andoh '849 teaches storing reference data in the PMA in ¶ 0188:1-13 and ¶ 0192:1-6.

Andoh '849 and Shavit/Ohno are analogous art because they are from the same field of endeavor—optical disks.

It would have been obvious to one skilled in the art at the time of the invention to modify the pointer entry stored in the program area as taught in Shavit/Ohno to include storing the pointer entry in the program memory area as taught by Andoh '849.

The motivation would have been to provide a way for a disc drive to detect the end portion of recorded data with high precision. See Andoh '849 ¶ 0009:1-5 and ¶ 0188:1-13.

Claims 3, 5, and 6 are rejected under 35 USC 103 as being unpatentable over Shavit (U.S. Patent 6,952,479 which incorporates by reference by reference Alcalay (U.S. Patent 6,988,206) See Shavit col. 5:10-14 and col. 12:35-40) in view of Ohno (U.S. Patent 6,628,602) as applied to claim 1 above and further in view of Soderstrom (US 2001/0047454) and further in view of Andoh '849 (US 2001/0040849).

With respect to claim 3, Shavit/Ohno teaches all the elements of claim 1 including an ALP pointer. See above. It appears Shavit/Ohno fail to explicitly teach "record carrier as claimed in claim 1, wherein an ALP pointer entry (E2) ***comprising a reference to a virtual allocation table entry (VAT) pointing to said DRM pointer entry (ALP) is stored in the program memory area (PMA).***" (emphasis on what Shavit/Ohno fail to teach).

However, Soderstrom teaches referencing a VAT in ¶ 0035:1-14.

Soderstrom and Shavit/Ohno are analogous art because they are from the same field of endeavor--optical disks.

It would have been obvious to one skilled in the art at the time of the invention to modify the ALP pointer entry pointing to as taught in Shavit/Ohno to include a reference to a virtual allocation table entry (VAT) pointing to said DRM pointer entry (ALP) as taught by Soderstrom.

The motivation would have been speed. If a file is changed then only the VAT has to be changed rather than an entire series of file pointers--changing the VAT is faster. See Soderstrom ¶ 0035 last 12 lines.

It appears that Shavit/Ohno/Soderstrom fail to explicitly teach that the DRM
5 pointer entry is stored in the PMA.

However, Andoh '849 teaches storing reference data in the PMA in ¶ 0188:1-13 and ¶ 0192:1-6.

Andoh '849 and Shavit/Ohno are analogous art because they are from the same field of endeavor—optical disks.

10 It would have been obvious to one skilled in the art at the time of the invention to modify the pointer entry stored in the program area as taught in Shavit/Ohno to include storing the pointer entry in the program memory area as taught by Andoh '849.

The motivation would have been to provide a way for a disc drive to detect the end portion of recorded data with high precision. See Andoh '849 ¶ 0009:1-5 and ¶
15 0188:1-13.

With respect to claim 5, Shavit/Ohno/Soderstrom teach all the elements of claim 3.

Soderstrom further teaches "wherein said reference to said virtual allocation table entry (VAT) comprises the sequence number of said virtual allocation table" in ¶ 0035:1-13.

5 **With respect to claim 6**, Soderstrom teaches "wherein said reference to said virtual allocation table entry (VAT) comprises the physical address of said virtual allocation table entry (VAT) within the sector of the program area storing said virtual allocation table entry (VAT)" in ¶ 0036 last 13 lines.

10 **Claim 4 is rejected under 35 USC 103 as being unpatentable over Shavit (U.S. Patent 6,952,479 which incorporates by reference by reference Alcalay (U.S. Patent 6,988,206) See Shavit col. 5:10-14 and col. 12:35-40) in view of Ohno (U.S. Patent 6,628,602) as applied to claim 1 above and further in view of Soderstrom (US 2001/0047454)**

15 **With respect to claim 4**, Shavit/Ohno teaches all the elements of claim 1 including a reference (descriptor) stored in a program area. See above.

It appears Shavit/Ohno fails to explicitly teach "record carrier as claimed in claim 1, wherein a descriptor, ***in particular an implementation use volume descriptor (IUV), storing a reference to a virtual allocation table entry (VAT) pointing to said***
20 ***DRM pointer entry (ALP)*** is stored in the program area" (emphasis on what Shavit/Ohno fail to teach).

However, Soderstrom teaches using a volume descriptor storing a reference to a VAT in ¶ 0035:1-14, ¶ 0056 last 15 lines, and ¶ 0051:1-5.

Soderstrom and Shavit/Ohno are analogous art because they are from the same field of endeavor--optical disks.

5 It would have been obvious to one skilled in the art at the time of the invention to modify the descriptor stored in the program area to as taught in Shavit/Ohno to include a use a volume descriptor storing a reference to a virtual allocation table entry (VAT) pointing to said DRM pointer entry (ALP) as taught by Soderstrom.

10 The motivation would have been speed. If a location of a file is changed, then only the VAT has to be changed rather than an entire series of file pointers—changing the VAT is faster. See Soderstrom ¶ 0035 last 12 lines.

Claim 7 is rejected under 35 USC 103 as being unpatentable over Shavit (U.S. Patent 6,952,479 which incorporates by reference by reference Alcalay (U.S. Patent 6,988,206) See Shavit col. 5:10-14 and col. 12:35-40) in view of Ohno (U.S. Patent 6,628,602) as applied to claim 1 above and further in view of Soderstrom (US 2001/0047454) and further in view of Andoh '194 (US 2003/002194).

With respect to claim 7, Shavit/Ohno teach all the elements of claim 1 including
20 an ALP pointer entry stored in the PMA.

It appears Shavit/Ohno fail to explicitly teach "Record carrier as claimed in claim 1, wherein an ALP pointer entry (E2) is stored in the program memory area (PMA), ***said ALP pointer entry (E2) comprising a first virtual allocation table entry comprising a pointer to said DRM pointer entry (ALP)***" (emphasis added).

5 However, Soderstrom teaches using a volume descriptor storing a reference to a VAT in ¶¶ 0035:1-14, ¶¶ 0056 last 15 lines, and ¶¶ 0051:1-5.

Soderstrom and Shavit/Ohno are analogous art because they are from the same field of endeavor--optical disks.

10 It would have been obvious to one skilled in the art at the time of the invention to modify the descriptor stored in the program area to as taught in Shavit/Ohno to include a use a volume descriptor storing a reference to a virtual allocation table entry (VAT) pointing to said DRM pointer entry (ALP) as taught by Soderstrom.

15 The motivation would have been speed. If a location of a file is changed, then only the VAT has to be changed rather than an entire series of file pointers—changing the VAT is faster. See Soderstrom ¶¶ 0035 last 12 lines.

It appears Shavit/Ohno/Soderstrom fail to explicitly teach

"and a second virtual allocation table entry (VAT), in particular located just before said first entry, indicating that said first entry comprises said pointer to said DRM pointer entry (ALP)"

However, Andoh teaches an allocation table entry before a first indicating that the first entry is a pointer to another entry in Fig. 2, Fig. 4, Fig. 6, Fig. 7, Fig. 8 and ¶ 0057: 1-8.

Andoh and Shavit/Ohno/Soderstrom are analogous art because they are from
5 the same field of endeavor—optical disks.

It would have obvious to one skilled in the art at the time of the invention to modify the VAT entry taught in Shavit/Ohno/Soderstrom to include a second VAT entry located just before said first entry, indicating that said first entry comprises said pointer to another pointer entry as taught by Andoh for that entry to be the DRM pointer entry
10 (ALP) taught by Shavit/Ohno/Soderstrom.

The motivation would have been to provide a way to playback information stored on the medium. See Andoh ¶ 0005:1-3.

Moreover, VAT and FAT entries referring to the next entry in the table is a well-known feature of file systems.

15

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sinquin (U.S. Patent No. 6,425,098) and Sinquin (U.S. Patent No. 6,952,479) (both incorporated by reference by Shavit, above).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert Phillips whose telephone number is 571-270-3256. The examiner can normally be reached on Mon-Fri. 9:30am-7pm; First Fri Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James K. Trujillo can be reached on (571)272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

10 Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information

15 system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Albert Phillips/
Examiner, Art Unit 2169 3/25/09

/James Trujillo/
Supervisory Patent Examiner, Art
Unit 2169